

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 139

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-13-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. As used in this chapter, "caseworker" has the meaning set forth in IC 31-9-2-11.**

SECTION 2. IC 10-13-3-7.5, AS AMENDED BY SEA 132-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7.5. (a) As used in this chapter, "emergency placement" means an emergency out-of-home placement of a child by:**

- (1) the department of child services established by IC 31-25-1-1;**
- (2) a law enforcement officer;**
- (3) a caseworker;**
- (4) a juvenile probation officer; or**
- (5) a court;**

as a result of exigent circumstances including an out-of-home placement under IC 31-34-2 or IC 31-34-4, or the sudden unavailability of the child's parent, guardian, or custodian, that require immediate placement with a person other than the child's parent, guardian, or custodian.

(b) The term includes any out-of-home placement for temporary care and custody of a child at or after the time of initial removal or

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transfer of custody of the child from the child's parent, guardian, or custodian, as authorized under any of the following:

- (1) IC 31-34-2.
- (2) IC 31-34-2.5.
- (3) IC 31-34-4.
- (4) IC 31-34-5.
- (5) IC 31-37-4.
- (6) IC 31-37-5.
- (7) IC 31-37-6.

(c) The term does not include any proposed or actual change in location of the child's placement for continuing care and custody after the court has entered an order at the time of or following a detention hearing required under IC 31-34-5 or IC 31-37-6, unless a court or an agency responsible for the child's care and supervision determines that an immediate change in placement is necessary to protect the health or safety of the child.

(d) The term does not include placement to an entity or in a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 3. IC 10-13-3-27.5, AS AMENDED BY SEA 132-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27.5. (a) If:

- (1) exigent circumstances require the emergency placement of a child; and
- (2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-25-1-1, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual who is currently residing in the location designated as the out-of-home placement at the time the child will be

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placed in the location. The department shall:

- (1) use fingerprint identification to positively identify each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location; or
- (2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) **calendar** days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

- (1) notification to the subject of the check; and
- (2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

- (1) a complete set of the individual's fingerprints; and
- (2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

- (1) department; and
- (2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

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- (1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or
- (2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any.

SECTION 4. IC 12-17.2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the ~~division~~ **department of child services established by IC 31-25-1-1** of child abuse or neglect (as defined in IC 31-9-2-14) by:

- (A) the applicant;
- (B) **an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or**
- (C) **a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.**

- (2) A criminal conviction of the applicant, ~~or of an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant,~~ or a volunteer of the applicant **who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant,** of any of the following:

- (A) A felony.
- (B) A misdemeanor related to the health or safety of a child.
- (C) A misdemeanor for operating a child care center without a license under section 35 of this chapter.
- (D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

- (3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

- (4) A determination by the division that the applicant made false statements in the records required by the division.

- (5) A determination by the division that the applicant previously operated a:

- (A) child care center without a license under this chapter; or
- (B) child care home without a license under IC 12-17.2-5.

- (b) Notwithstanding subsection (a)(2), if:

- (1) a license application is denied due to a criminal conviction of

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an employee or a volunteer of the applicant; and
 (2) the division determines that the employee or volunteer has been dismissed by the applicant;
 the criminal conviction of the former employee or former volunteer does not require denial of a license application.

SECTION 5. IC 12-17.2-4-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the ~~division~~ **department of child services** of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~or of an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee,~~ or a volunteer of the licensee **who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee,** of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under section 35 of this chapter.

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under this chapter; or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a license is revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the division determines that the employee or volunteer has

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been dismissed by the licensee;
the criminal conviction of the former employee or former volunteer does not require revocation of a license.

SECTION 6. IC 12-17.2-4-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 36. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect in a child care center.**

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or neglect occurred at the child care center.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care center is substantiated, the department shall send a copy of its report to the appropriate licensing office of the division.

SECTION 7. IC 12-17.2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) The following constitute sufficient grounds for a denial of a license application:**

(1) A determination by the ~~division~~ department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~or~~ an employee ~~or~~ of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or ~~of~~ a member of the applicant's household, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.

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(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

(A) an employee or a volunteer of the applicant; or

(B) a member of the applicant's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the applicant; or

(B) member of the applicant's household is no longer a member of the applicant's household;

the criminal conviction of the former employee, former volunteer, or former member does not require denial of a license application.

SECTION 8. IC 12-17.2-5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the ~~division~~ **department of child services** of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~of an employee or of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee,~~ a volunteer of the licensee **who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee,** or ~~of a member of the licensee's household, of any of the following:~~

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

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- (D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.
- (3) A determination by the division that the licensee made false statements in the licensee's application for licensure.
- (4) A determination by the division that the licensee made false statements in the records required by the division.
- (5) A determination by the division that the licensee previously operated a:
 - (A) child care center without a license under IC 12-17.2-4; or
 - (B) child care home without a license under this chapter.
- (b) Notwithstanding subsection (a)(2), if:
 - (1) a license is revoked due to a criminal conviction of:
 - (A) an employee or a volunteer of the licensee's; or
 - (B) a resident of the licensee's household; and
 - (2) the division determines that the:
 - (A) employee or volunteer has been dismissed by the licensee; or
 - (B) member of the licensee's household is no longer a member of the licensee's household;

the criminal conviction of the former employee, former volunteer, or former member does not require revocation of a license.

SECTION 9. IC 12-17.2-5-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 37. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect at a child care home.**

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or neglect occurred at the child care home.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care home is substantiated, the department shall send a copy of its report to the appropriate licensing office at the division.

SECTION 10. IC 16-37-2-2.1, AS AMENDED BY SEA 132-2006, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.1. (a) A paternity affidavit may be executed as provided in this section through:**

- (1) a hospital; or
- (2) a local health department.
- (b) Immediately before or after the birth of a child who is born out of wedlock, a person who attends or plans to attend the birth, including personnel of all public or private birthing hospitals, shall:

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(1) provide an opportunity for:

(A) the child's mother; and

(B) a man who reasonably appears to be the child's biological father;

to execute an affidavit acknowledging paternity of the child; and

(2) verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection (g).

(c) A paternity affidavit must be executed on a form provided by the state department. The paternity affidavit is valid only if the affidavit is executed as follows:

(1) If executed through a hospital, the paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth.

(2) If executed through a local health department, the paternity affidavit must be completed before the child has reached the age of emancipation.

(d) A paternity affidavit is not valid if it is executed after the mother of the child has executed a consent to adoption of the child and a petition to adopt the child has been filed.

(e) A paternity affidavit executed under this section must contain or be attached to all of the following:

(1) The mother's sworn statement asserting that a person described in subsection ~~(a)(2)~~ **(b)(1)(B)** is the child's biological father.

(2) A statement by a person identified as the father under subdivision (1) attesting to a belief that he is the child's biological father.

(3) Written information furnished by the child support bureau of the department of child services:

(A) explaining the effect of an executed paternity affidavit as described in subsection (g); and

(B) describing the availability of child support enforcement services.

(4) The Social Security number of each parent.

(f) A woman who knowingly or intentionally falsely names a man as the child's biological father under this section commits a Class A misdemeanor.

(g) A paternity affidavit executed under this section:

(1) establishes paternity; ~~and~~

(2) gives rise to parental rights and responsibilities of the person described in subsection (e)(2), including:

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(A) the right of the child's mother or the Title IV-D agency to obtain a child support order against the person, which may include an order requiring the provision of health insurance coverage; and

(B) reasonable parenting time rights unless another determination is made by a court in a proceeding under IC 31-14-14; and

(3) may be filed with a court by the department of child services.

However, if a paternity affidavit is executed under this section, the child's mother has sole legal custody of the child unless another custody determination is made by a court in a proceeding under IC 31-14.

(h) Notwithstanding any other law,

~~(1) any person listed in IC 31-14-4-1 or IC 31-14-4-3; or~~

~~(2) a man who is a party to a paternity affidavit executed under this section~~

may, within sixty (60) days of the date that a paternity affidavit is executed under this section, file an action in a court with jurisdiction over paternity to request an order for a genetic test.

(i) A paternity affidavit that is properly executed under this section may not be rescinded more than sixty (60) days after the paternity affidavit is executed unless a court:

(1) has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit; and

(2) at the request of a man described in subsection (h), has ordered a genetic test, and the test indicates that the man is excluded as the father of the child.

(j) Unless good cause is shown, a court shall not suspend the legal responsibilities under subsection ~~(g)(2)~~ **(g)(2)(A)** of a party to the executed paternity affidavit during a challenge to the affidavit.

(k) The court ~~shall~~ **may not** set aside the paternity affidavit ~~upon a showing from~~ **unless** a genetic test ~~that sufficiently demonstrates that~~ **ordered under subsection (h) or (i) excludes** the person who executed the paternity affidavit ~~is excluded~~ as the child's biological father.

(l) If a paternity affidavit is not executed under subsection (b), the hospital where the birth occurs or a person in attendance at the birth shall inform the child's mother of services available for establishing paternity.

(m) Except as provided in this section, if a man has executed a paternity affidavit in accordance with this section, the executed paternity affidavit conclusively establishes the man as the legal

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father of a child without any further proceedings by a court.

SECTION 11. IC 31-9-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. "Caseworker", for purposes of the juvenile law, means ~~a child welfare worker of the county office of family and children;~~ **an employee of the department of child services who is classified as a family case manager.**

SECTION 12. IC 31-9-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

(b) "Custodian", for purposes of ~~IC 31-34-1-1 through IC 31-34-1-9;~~ **IC 31-34-1**, includes any person responsible for the child's welfare who is employed by a public or private residential school or foster care facility. **who is:**

(1) a license applicant or licensee of:

(A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;

(B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or

(C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5; or

(2) a person who is responsible for care, supervision, or welfare of children while providing services as an employee or volunteer at:

(A) a home, center, or facility described in subdivision (1); or

(B) a school, as defined in IC 31-9-2-113.5.

SECTION 13. IC 31-9-2-113.5, AS AMENDED BY P.L.1-2005, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 113.5. "School", for purposes of **section 31 of this chapter and** IC 31-39-2-13.8, means a:

(1) public school (including a charter school as defined in IC 20-24-1-4); or

(2) nonpublic school (as defined in IC 20-18-2-12);

that must comply with the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) to be eligible to receive designated federal education funding.

SECTION 14. IC 31-9-2-123 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 123. "Substantiated", for purposes of ~~IC 31-33 IC 31-34-8-4, and IC 31-37-9-5;~~ **when used in reference to a child abuse or neglect report made under IC 31-33**, means a determination regarding the status of ~~a~~ **the** report

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~~made under IC 31-33~~ whenever facts obtained during an investigation of the report provide ~~credible~~ **a preponderance of** evidence that child abuse or neglect has occurred.

SECTION 15. IC 31-9-2-134.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 134.5. (a) "Wardship", for purposes of the juvenile law, means the responsibility for temporary care and custody of a child by transferring the rights and obligations from the child's parent, guardian, or custodian to the person granted wardship. Except to the extent a right or an obligation is specifically addressed in the court order establishing wardship, the rights and obligations of the person granted wardship include making decisions concerning the:**

- (1) physical custody of the child;**
- (2) care and supervision of the child;**
- (3) child's visitation with parents, relatives, or other individuals; and**
- (4) medical care and treatment of the child.**

(b) "Wardship" does not apply to requirements for consenting to an adoption under IC 31-19-9.

SECTION 16. IC 31-17-2-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 25. (a) This section applies if a custodial parent or guardian of a child dies or becomes unable to care for the child.**

(b) Except as provided in subsection (d), if a person other than a parent files a petition:

- (1) seeking to determine custody of the child; or**
- (2) to modify custody of the child;**

that person may request an initial hearing by alleging, as part of the petition, or in a separate petition, the facts and circumstances warranting emergency placement with a person other than the noncustodial parent, pending a final determination of custody.

(c) If a hearing is requested under subsection (b), the court shall set an initial hearing not later than four (4) business days after the petition is filed to determine whether emergency placement of the child with a person other than the child's noncustodial parent should be granted, pending a final determination of custody.

(d) A court is not required to set an initial hearing in accordance with this section if:

- (1) it appears from the pleadings that no emergency requiring placement with a person other than the noncustodial parent**

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exists;

(2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or

(3) manifest injustice would result.

SECTION 17. IC 31-19-2-12, AS AMENDED BY SEA 132-2006, SECTION 245, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to:

~~(1) the department;~~

~~(2) (1)~~ a licensed child placing agency as described in IC 31-19-7-1, with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption; and

~~(3) (2)~~ the county office of family and children whenever a subsidy is requested in a petition for adoption sponsored by a licensed child placing agency.

SECTION 18. IC 31-25-3-1, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) The child support bureau is established within the department. The bureau is charged with the administration of Title IV-D of the federal Social Security Act.

(b) The state's plan for the administration of Title IV-D must comply with all provisions of state law and with the federal statutes and regulations governing the program.

(c) The state central collection unit is established within the child support bureau. The unit shall collect all noncash child support payments and process child support paid through income withholding.

SECTION 19. IC 31-25-4-13, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney;

(2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee established by IC 33-24-11-1; or

(3) a collection agency licensed under IC 25-11 to collect

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arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years; in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1 before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and, if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 14 of this chapter, a prosecuting attorney with whom the bureau contracts under subsection (a):

- (1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and
- (2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time an application for child support services is made, the applicant must be informed that:

- (1) an attorney who provides services for the bureau is the attorney for the state and is not providing legal representation to the applicant; and
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(f) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of

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parenting time or parenting time credit.

(g) This section expires December 31, 2006.

SECTION 20. IC 31-25-4-13.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.1. (a) This section applies after December 31, 2006.**

(b) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney;

(2) a private attorney or private entity if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established by IC 33-24-11-1); or

(3) a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years; in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(c) The hiring of a private attorney or private entity by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(d) Subject to section 14.1 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (b):

(1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and

(2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(e) A prosecuting attorney or private attorney entering into an

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agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(f) At the time that an application for child support services is made, the applicant must be informed that:

- (1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(g) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

(h) An agreement made under subsection (b) must contain requirements stipulating service levels a prosecuting attorney or private entity is expected to meet. The bureau shall disburse incentive money based on whether a prosecuting attorney or private entity meets service levels stipulated in an agreement made under subsection (b).

SECTION 21. IC 31-25-4-14, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 18 of this chapter to contract with a collection agency licensed under IC 25-11 to provide child support enforcement services.

(b) The bureau shall:

- (1) establish a list of approved collection agencies with which a prosecuting attorney may contract under this section;
- (2) establish requirements for participation in the program established under this section to assure:
 - (A) effective administration of the plan; and
 - (B) compliance with all federal and state statutes, regulations, and rules;
- (3) update and review the list described in subdivision (1) and

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forward a copy of the updated list to each prosecuting attorney annually; and

(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(c) A contract between a prosecuting attorney and a collection agency under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(d) Not later than July 1, 2006, the bureau shall provide the legislative council with a report:

(1) evaluating the effectiveness of the program established under this section; and

(2) evaluating the impact of arrearage reductions for child support orders under which collection agencies have collected under ~~IC 12-17-2-18(c)~~ **IC 31-25-4-13**.

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;

(C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:

(i) source of each payment received for arrearage on a child support order;

(ii) form of each payment received for arrearage on a child support order;

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(iii) amount and percentage that is deducted as a fee or a charge from each payment of arrearage on a child support order; and

(iv) amount of arrearage owed under a child support order; and

(D) be one (1) year renewable contracts; and

(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

(h) A collection agency that contracts with the bureau or a prosecuting attorney under this section may, in addition to the collection of arrearages on a child support order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection (g).

(i) This section expires December 31, 2006.

SECTION 22. IC 31-25-4-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14.1. (a) This section applies after December 31, 2006.**

(b) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 13.1 of this chapter to contract with a collection agency licensed under IC 25-11 to provide child support enforcement services.

(c) The bureau shall:

(1) establish a list of approved collection agencies with which a prosecuting attorney may contract under this section;

(2) establish requirements for participation in the program established under this section to assure:

(A) effective administration of the plan; and

(B) compliance with all federal and state statutes, regulations, and rules;

(3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and

(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(d) A contract between a prosecuting attorney and a collection agency under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to

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inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;

(C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:

(i) source of each payment received for arrearage on a child support order;

(ii) form of each payment received for arrearage on a child support order;

(iii) amount and percentage that is deducted as a fee or a charge from each payment of arrearage on a child support order; and

(iv) amount of arrearage owed under a child support order; and

(D) be one (1) year renewable contracts; and

(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

(h) A collection agency that contracts with the bureau or a prosecuting attorney under this section may, in addition to the collection of arrearages on a child support order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection

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(g).

SECTION 23. IC 31-25-4-23, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: (a) **Subject to subsection (d)**, the Title IV-D agency shall provide incentive payments to counties for enforcing and collecting the support rights that have been assigned to the state. The incentive payments shall be made by the Title IV-D agency directly to the county and deposited in the county treasury for distribution on a quarterly basis and in ~~equal shares~~ to the following manner:

- (1) **Twenty-two and two-tenths percent (22.2%) of the incentive payments shall be distributed to** the county general fund.
- (2) **Thirty-three and four-tenths percent (33.4%) of the incentive payments shall be distributed to** the operating budget of the prosecuting attorney.
- (3) **Twenty-two and two-tenths percent (22.2%) of the incentive payments shall be distributed to** the operating budget of the circuit court clerk.

(b) Notwithstanding IC 36-2-5-2(b), distribution from the county treasury under subsection (a) shall be made without the necessity of first obtaining an appropriation from the county fiscal body.

(c) The amount that a county receives and the terms under which the incentive payment is paid must be in accordance with relevant federal statutes and the federal regulations promulgated under the statutes. However, amounts received as incentive payments may not, without the approval of the county fiscal body, be used to increase or supplement the salary of an elected official. The amounts received as incentive payments must be used to supplement, rather than take the place of, other funds used for Title IV-D program activities.

(d) The Title IV-D agency shall retain twenty-two and two-tenths percent (22.2%) of the incentive payments described in subsection (a).

SECTION 24. IC 31-25-4-24, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **(a)** Each circuit court clerk shall do the following:

- (1) **Before January 1, 2007**, receive ~~the~~ support money assigned to the state and paid under the terms of a court order in the clerk's jurisdiction and pay the money to the Title IV-D agency within the time limits established by P.L.93-647, as amended, and any related regulations that are promulgated.

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(2) Maintain all records concerning the payment or nonpayment of support money that have been assigned to the state and transmit the records to the Title IV-D agency upon request.

(3) Contract with the Title IV-D agency for the performance and the remuneration for the performance of duties prescribed in this section.

(b) Beginning January 1, 2007, for purposes of subsection (a)(1), each circuit court clerk may accept only support money that is paid in cash.

SECTION 25. IC 31-25-4-25, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: The amounts appropriated for duties performed by prosecuting attorneys, circuit court clerks, or other agents under this chapter shall be distributed directly from the department of **child services**.

SECTION 26. IC 31-27-2-1, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The department shall perform the following duties:

- (1) Administer the licensing and monitoring of child caring institutions, foster family homes, group homes, and child placing agencies in accordance with this article.
- (2) Ensure that a criminal history background check of an applicant is completed before issuing a license.
- (3) Provide for the issuance, denial, ~~suspension~~, and revocation of licenses.
- (4) Cooperate with governing bodies of child caring institutions, foster family homes, group homes, and child placing agencies and their staffs to improve standards of child care.
- (5) Prepare at least biannually a directory of licensees, except for foster family homes, with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.
- (6) Deposit all license application fees collected under section 2 of this chapter in the department of child services child care fund established by IC 31-25-1-16.

SECTION 27. IC 31-27-3-13, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A license for a child caring institution expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary ~~or suspended~~ status, or

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voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the department.

(c) When a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

(d) A current license must be publicly displayed.

SECTION 28. IC 31-27-3-14, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The department may ~~grant~~ **a place a licensee on probationary license to a licensee who status if the licensee** is temporarily unable to comply with a rule **and** if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the department, state department of health, or the state fire marshal to correct the areas of noncompliance within the probationary period; and
- (3) the department, state department of health, or state fire marshal approves the plan.

(b) A probationary ~~license status period~~ **is valid** for not more than six (6) months. **However**, the department may extend a probationary ~~license status period~~ for one (1) additional period of six (6) months.

~~(c) A license is invalidated when a probationary license is issued.~~

~~(d)~~ **(c)** At the expiration of a probationary ~~license~~, **status period**, the department shall: ~~reinstate~~

- (1) reactivate the original** license to the end of the original term of the license; ~~issue a new license~~;
- (2) extend the probationary status period as permitted under subsection (b);** or
- (3) revoke the license.**

~~(e) Upon receipt of a probationary license, the licensee shall return to the department the previously issued license.~~

SECTION 29. IC 31-27-3-27, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) After a license is revoked, ~~or suspended~~, the department shall notify in writing each person responsible for each child in care to ensure that those children are removed.

(b) The written notice shall be sent to the last known address of the

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person responsible for the child in care and shall state that the license of the child caring institution has been revoked. ~~or suspended.~~

SECTION 30. IC 31-27-3-32, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. (a) A licensee shall operate a child caring institution in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 22 of this chapter, the department may ~~impose any of the following sanctions~~ **revoke the license** when the department finds that a licensee has committed a violation under subsection (a).

~~(1) Suspend the license for not more than six (6) months.~~

~~(2) Revoke the license.~~

SECTION 31. IC 31-27-4-16, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A license for a foster family home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary ~~or suspended~~ status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the department.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the department issues a license or denies the application.

SECTION 32. IC 31-27-4-17, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) The department may ~~grant a place a licensee on probationary license to a licensee who status if the licensee~~ is temporarily unable to comply with a rule ~~and~~ if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and
- (3) the department approves the plan.

(b) A probationary ~~license status period~~ **is valid** for not more than

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six (6) months. **However**, the department may extend a probationary ~~license status period~~ for one (1) additional period of six (6) months.

~~(c) An existing license is invalidated when a probationary license is issued.~~

~~(d)~~ **(c)** At the expiration of a probationary ~~license~~, **status period**, the department shall: ~~reinstate~~

(1) reactivate the original license to the end of the original term of the license; ~~issue a new license; or~~

(2) extend the probationary status period as permitted under subsection (b); or

(3) revoke the license.

~~(e) Upon receipt of a probationary license, the licensee shall return to the department the previously issued license.~~

SECTION 33. IC 31-27-4-30, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) After the license of a foster family home is revoked, ~~or suspended~~, the department shall notify in writing each person responsible for each child in care, to ensure that the children are removed from the foster family home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the foster family home has been revoked. ~~or suspended.~~

SECTION 34. IC 31-27-4-33, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 33. (a) A licensee shall operate a foster family home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through 25 of this chapter, the department ~~may impose the following sanctions~~ **may revoke the license** when the department finds that a licensee has committed a violation under subsection (a).

~~(1) Suspend the license of the licensee for not more than six (6) months.~~

~~(2) Revoke the license of the licensee.~~

However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a)(1) through 13(a)(19) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a)(1) through 13(a)(19) of this chapter.

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SECTION 35. IC 31-27-5-14, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) A license for a group home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary ~~or suspended~~ status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the department.

(c) A current license shall be publicly displayed.

(d) If a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

SECTION 36. IC 31-27-5-15, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) The department may ~~grant a place a licensee on probationary license to a licensee who is status if the licensee is~~ temporarily unable to comply with a rule **and if:**

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the licensee;
- (2) the licensee files a plan with the department, the state department of health, or the state fire marshal to correct the areas of noncompliance within the probationary period; and
- (3) the department, the state department of health, or the state fire marshal approves the plan.

(b) A probationary ~~license status period is valid~~ for not more than six (6) months. **However,** the department may extend a probationary ~~license status period~~ for one (1) additional period of six (6) months.

(c) A licensee's existing license is invalidated ~~when a probationary license is issued to the licensee.~~

~~(d)~~ (c) At the expiration of a probationary ~~license; status period,~~ the department shall: ~~reinstate~~

- (1) **reactivate** the ~~original~~ license to the end of the original license's term ~~issue a new of the~~ license;
- (2) **extend the probationary status period as permitted in subsection (b);** or
- (3) revoke the license.

(e) Upon receipt of a probationary license, the licensee shall ~~return to the department the previously issued license.~~

SECTION 37. IC 31-27-5-27, AS ADDED BY SEA 132-2006,

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SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) After the license of a group home is revoked, ~~or suspended~~, the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the group home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the group home has been revoked. ~~or suspended~~.

SECTION 38. IC 31-27-5-32, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. (a) A licensee shall operate a group home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 22 of this chapter, the department may ~~impose any of the following sanctions~~ **revoke the license** when the department finds that a licensee has committed a violation under subsection (a).

~~(1) Suspend the license of the licensee for not more than six (6) months.~~

~~(2) Revoke the license of the licensee.~~

SECTION 39. IC 31-27-6-10, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) A license for a child placing agency expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary ~~or suspended~~ status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the department.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the department issues a license or denies the application.

SECTION 40. IC 31-27-6-11, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The department may ~~grant~~ **a place a licensee on probationary license to a licensee who status if**

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the licensee is temporarily unable to comply with a rule **and** if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the licensee;
- (2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and
- (3) the department approves the plan.

(b) A probationary ~~license status period~~ is ~~valid~~ for not more than six (6) months. **However**, the department may extend a probationary **license status period** for one (1) additional period of six (6) months.

~~(c) A licensee's existing license is invalidated when a probationary license is issued to the licensee:~~

~~(d)~~ **(c)** At the expiration of a probationary ~~license~~; **status period**, the department shall: ~~reinstate~~

- (1) reactivate** the ~~original~~ license to the end of the original license's term ~~issue a new~~ **of the** license;
- (2) extend the probationary status period as permitted in subsection (b);** or
- (3) revoke** the original license.

~~(e) Upon receipt of a probationary license, the licensee shall return to the department the previously issued license:~~

SECTION 41. IC 31-27-6-24, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. (a) After the license of a child placing agency is revoked, ~~or suspended~~; the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the child placing agency.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the child placing agency has been revoked. ~~or suspended~~:

SECTION 42. IC 31-27-6-29, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29. (a) A licensee shall operate a child placing agency in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 16 through 19 of this chapter, the department may ~~impose any of the following sanctions~~ **revoke the license** when the department finds that a licensee has committed a violation under subsection (a).

- ~~(1) Suspend the license of the licensee for not more than six (6) months:~~

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~~(2) Revoke the license of the licensee.~~

SECTION 43. IC 31-33-18-2, AS AMENDED BY SEA 132-2006, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
 - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
 - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.
- (9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the

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court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation

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report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

SECTION 44. IC 31-33-20-4, AS AMENDED BY P.L.234-2005, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. **(a) Subject to the accessibility to files provided in subsection (b),** at least ten (10) levels of security for confidentiality in the system must be maintained.

(b) The system must have a comprehensive system of limited access to information as follows:

(1) The system must be accessed only by the entry of an operator identification number and a person's secret password.

(2) Child welfare caseworkers ~~and investigators~~ must be allowed to access only:

(A) cases that are assigned to the caseworker; ~~or investigator;~~
and

(B) other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A).

(3) Child welfare supervisors may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker ~~or an investigator~~ who reports to the supervisor.

(C) Other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A) or (B).

~~(C)~~ **(D)** Cases that are unassigned.

(4) To preserve confidentiality in the workplace, ~~case~~ **child** welfare managers, as designated by the department, may access any case, except restricted cases involving a state employee or the immediate family member of a state employee who has access to the system. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

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(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the department as an administrator; and

(B) the administrator's level of administration as determined by the department.

(6) Ancillary programs that may be designed for the system may not be executed in a manner that would circumvent the system's log on security measures.

(7) Certain system functions must be accessible only to system operators with specified levels of authorization as determined by the department.

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the department.

SECTION 45. IC 31-34-5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. If the juvenile court releases a child to the child's parent, guardian, or custodian under section 3 of this chapter, the court may impose conditions on the child or the child's parent, guardian, or custodian to ensure the safety of the child's physical or mental health.**

SECTION 46. IC 31-34-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) **Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall ~~hold~~ complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.**

(b) **The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.**

SECTION 47. IC 31-34-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsection (b), at the close of all the evidence and before judgment is entered, the court may continue the case for not more than twelve (12) months.

(b) If the:

(1) child; ~~or the~~

(2) child's parent, guardian, or custodian; ~~or~~

(3) department;



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requests that judgment be entered, the judgment shall be entered not later than thirty (30) days after the request is made.

(c) If the child is in a juvenile detention facility, the child shall be released not later than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, pending the entry of judgment. A child released from a juvenile detention facility pending the entry of judgment may be detained in a shelter care facility.

SECTION 48. IC 31-34-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The juvenile court shall ~~not~~ **complete** a dispositional hearing **not more than thirty (30) days after the date the court finds that a child is a child in need of services** to consider the following:

- (1) Alternatives for the care, treatment, rehabilitation, or placement of the child.
- (2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.
- (3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.

SECTION 49. IC 31-34-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. **(a)** The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is a child in need of services, to:
 - (A) prevent the child's removal from; or
 - (B) reunite the child with;
 the child's parent, guardian, or custodian in accordance with federal law.
- (4) Family services that were offered and provided to:
 - (A) a child in need of services; or
 - (B) the child's parent, guardian, or custodian;
 in accordance with federal law.
- (5) The court's reasons for the disposition.

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

SECTION 50. IC 31-34-20-1, AS AMENDED BY SEA 132-2006, SECTION 311, IS AMENDED TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 2006]: Sec. 1. Subject to section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department or the county office or the department.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. ~~Wardship under this subdivision does not include the right to consent to the child's adoption.~~
- (5) Partially or completely emancipate the child under section 6 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian; to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 51. IC 31-34-21-1, AS AMENDED BY SEA 132-2006, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order

- ~~(1) the department or~~
- ~~(2) the probation department;~~

to file a report on the progress made in implementing the decree.

(b) The juvenile court shall order the department to file a report every three (3) months after the dispositional decree is entered on the progress made in implementing the decree.

~~(b)~~ (c) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

SECTION 52. IC 31-34-21-2, AS AMENDED BY SEA 132-2006, SECTION 314, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) ~~In accordance with federal law,~~ The case of each child in need of services under the supervision of the county office or the department must be reviewed at least once

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every six (6) months, or more often, if ordered by the court.

(b) The first of these periodic case reviews must occur:

- (1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or
- (2) at least six (6) months after the date of the dispositional decree;

whichever comes first.

(c) Each periodic case review must be conducted by the juvenile court in a formal court hearing.

(d) The court may perform a periodic case review any time after a progress report is filed as described in section 1 of this chapter.

SECTION 53. IC 31-34-22-2, AS AMENDED BY P.L.129-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child, and the child's parent, **foster parent**, guardian, guardian ad litem, court appointed special advocate, or custodian within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to the child or the child's parent, **foster parent**, guardian, or custodian, the court **is not required to make the report available to the person as required in subsection (a). However, the court** shall provide a copy of the report to the following:

- (1) Each attorney or guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) Each court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, **foster parent**, guardian, or custodian.

(d) In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report

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to any court appointed special advocate.

SECTION 54. IC 31-35-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. Except when a hearing is required after June 30, 1999, under section 4.5 of this chapter, the person filing the petition may request the court to set the petition for a hearing. Whenever a hearing is requested under this chapter, the court shall:

- (1) commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; **and**
- (2) complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.**

SECTION 55. IC 31-37-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

- (1) the child is unlikely to appear for subsequent proceedings;
- (2) detention is essential to protect the child or the community;
- (3) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child;
- (4) return of the child to the child's home is or would be:
 - (A) contrary to the best interests and welfare of the child; and
 - (B) harmful to the safety or health of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:

- (1) The factual basis for the finding specified in subsection (a)(4).
- (2) A description of the family services available and efforts made to provide family services before removal of the child.
- (3) The reasons why efforts made to provide family services did

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not prevent removal of the child.

(4) Whether efforts made to prevent removal of the child were reasonable.

(d) Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

- (1) home detention;
- (2) electronic monitoring;
- (3) a curfew restriction;
- (4) a protective order;
- (5) a no contact order;
- (6) an order to comply with Indiana law; or
- (7) an order placing any other reasonable conditions on the child's actions or behavior.

(e) If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to ensure:

- (1) the safety of the child's physical or mental health;**
- (2) the public's physical safety; or**
- (3) that any combination of subdivisions (1) and (2) is satisfied.**

SECTION 56. IC 31-37-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. **(a)** The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) The court's reasons for the disposition.

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

SECTION 57. IC 31-37-19-1, AS AMENDED BY SEA 132-2006, SECTION 345, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department, or the county office or the department.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

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- (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. ~~Wardship under this subdivision does not include the right to consent to the child's adoption.~~
- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian; to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 58. IC 31-37-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided by subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) for use at a periodic case review or hearing under IC 31-37-20-2 or IC 31-37-20-3;

shall be made available to the child, and the child's parent, **foster parent**, guardian, guardian ad litem, custodian, or court appointed special advocate within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to the child or the child's parent, **foster parent**, guardian, or custodian, the court **is not required to make the report available to the person as required under subsection (a). However, the court** shall provide a copy of the report to the following:

- (1) Each attorney or a guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) A court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, **foster parent**, guardian, or custodian.

(d) In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time

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period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

SECTION 59. IC 33-37-5-6, AS AMENDED BY HEA 1040-2006, SECTION 508, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk **or the state central collection unit.**

(b) The clerk **or the state central collection unit** shall collect a fee in addition to support and maintenance payments. The fee is ~~the following:~~

(1) ~~Twenty dollars (\$20) for the calendar year in which the initial order is entered; unless the first payment is due after June 30 of that calendar year.~~

(2) ~~Ten dollars (\$10) for the calendar year in which the initial order was entered; if the first payment is due after June 30 of that calendar year.~~

(3) ~~In each subsequent year in which the initial order or a modified order is in effect, twenty dollars (\$20) if the fee is paid before February 1, or thirty dollars (\$30) if paid after January 31.~~
thirty dollars (\$30) for each calendar year.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-32-4-6 and IC 33-37-7-2(g), **if a fee is collected under this section by the clerk**, the clerk shall forward the fee ~~collected under this section~~ to the county auditor in accordance with IC 33-37-7-12(a). **If a fee is collected under this section by the central collection unit, the fee shall be deposited in the state general fund.**

(f) **Income payors required to withhold income under IC 31-16-15 shall pay the annual fee required by subsection (b) through the income withholding procedures described in IC 31-16-15-1.**

SECTION 60. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 31-27-3-23; IC 31-27-3-24; IC 31-27-3-25; IC 31-27-4-26; IC 31-27-4-27; IC 31-27-4-28; IC 31-27-5-23;



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IC 31-27-5-24; IC 31-27-5-25; IC 31-27-6-20; IC 31-27-6-21;
IC 31-27-6-22.

SECTION 61. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding the amendment of IC 12-17.2-2-3(a) by SEA 132-2006, SECTION 93, and notwithstanding SEA 132-2006, SECTION 378, requiring that the balance of the child care fund shall be transferred to the division of family resources child care fund on June 30, 2006, the child care fund shall remain in existence after June 30, 2006, until the entire balance of the child care fund is transferred to the division of family resources child care fund.**

(b) This SECTION expires January 1, 2007.

SECTION 62. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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